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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,206	12/31/2003	Angelo Cuffaro	1-2-0522.1US	9208
24374 7590 08/02/2007 VOLPE AND KOENIG, P.C. DEPT. ICC UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			EXAMINER DUONG, FRANK	
			ART UNIT 2616	PAPER NUMBER
			MAIL DATE 08/02/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/750,206

Applicant(s)

CUFFARO ET AL.

Examiner

Frank Duong

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is a response to the communications dated 12/31/03. Claims 1-11 are pending in the application.

Information Disclosure Statement

2. The information disclosure statements filed 12/13/04, 05/08/06, 05/30/06 and 03/02/07 comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609. They have been considered and placed in the application file.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Regarding claims 1-8, there is no support for the claimed limitations of “*estimating an increase in noise in the uplink and downlink,*” and “*estimating an increase in required transmission power in the uplink and downlink*” in the specification. In accordance with the specification, on page 9, last paragraph, in reference to FIG. 5, it is disclosed “step 406, an estimate of the increase noise rise at the base station (in the uplink) or at the WTRU (in the downlink)” and “an estimate of the required transmission power at the base station (in the downlink) or at the WTRU (in the uplink) is calculated for each timeslot for each candidate cell.” From the disclosed features, the claimed limitations of “*estimating an increase in noise in the uplink and downlink,*” and “*estimating an*

Art Unit: 2616

*increase in required transmission power in the uplink **and** downlink"* cannot unambiguously derive to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

(Note: Due to the above problems, there is no art applied to determine the allowability of claims 1-8 at this time)

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As per claim 1-8, the claimed steps of the method are divided into three groups. Group 1 consists of the first and second steps; group 2 consists of the third step; and group 3 consists of the fourth and fifth steps. However, the steps of the group are not functionally interconnected. Without the interconnection between the groups, the claimed method is not understood without resort to speculation. Presently, speculation and conjecture must be utilized by Examiner and by the artisan inasmuch as the claims presented do not definitely reflect what the disclosed invention is. Note *In re Steele*, 305 F.2d 859, 862, 134 USPQ 292, 295 (CCPA 1962). Note also *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970).

As per claims 9-11, the term "a processor" is twice recited on lines 7 and 9. It is unclear whether "a processor" recited thereat refers to one distinctive element or to two different elements.

Allowable Subject Matter

5. Claims 8-11 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

6. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record, considered individually or in combination, fails to fairly show or suggest the claimed system, comprising, among other things, a novel and unobvious limitation of *"processor configured to estimate an increase in noise rise and required transmission power and request resources in a timeslot of at least one of a plurality of cells having a path loss below a predetermined value with respect to the WTRU requesting the resources,"* structurally and functionally interconnected with other limitations in a manner as recited in claims 8-11.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Zeira et al (USP 6,850,500).

I et al (USP 6,088,335).

Rave et al, Evaluation of Load Control Strategies in an UTRA/FDD Network, IEEE, pages 2710-2714, 2001.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank Duong whose telephone number is 571-272-3164. The examiner can normally be reached on 7:00AM-3:30PM, Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynn D. Feild can be reached on 571-272-2092. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



FRANK DUONG
PRIMARY EXAMINER

July 27, 2007.